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EXAMINER				
AN, IG TAI				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,725

Applicant(s)

CHEN, JACK

Examiner

Ig T. An

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3) ☐ Information Disclosure Statement(s) (PTO/ISD)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

This communication is a First Office Action Non- Final Rejection on the merits.

Claims 1 - 9 are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1 - 4 and 6 - 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Massaro (US 20020034067).**

As per Claims 1 and 2, Massaro teaches a device for electronically pricing product above a shelf (Title and Abstract) comprising:

a bus having a plurality of contact strips (Abstract and Figure 1 teaches a bus having a plurality of contact strips),

means for attaching said bus to said shelf (Abstract, Figure 1, Figure 6 and Figure 9 teaches bus are attached to the bus);

a price display unit for electronically displaying a product price (Abstract and Figure 6 teaches a price display unit for electronically displaying a product price),

means for removably attaching said price display unit to said bus (Figure 1 and Figure 2 teaches the display unit can be attached and removed from the display bus),

said price display unit having contacts for making electric connection to said contact strips (Figure 1 and Figure 2, Figure 9 – 14 and Paragraph 50 – 51 teaches a display unit is attached to the print circuit board which have direct electric connection to contact strips for power and data);

a control unit for storing pricing information (Figure 9, Abstract and Paragraph 27 - 28 and 32 teaches print circuit board and B.U.S.M stores display information such as price), and

said control unit electrically connected to said contact strips of said bus wherein said price display unit receives electric power and a display signal from said control unit through said contact strips of said bus (Abstract, Figure 9, and paragraph 27 – 28 and 61 – 62 teaches B.U.S.M and print circuit board is electronically connected on the bus and B.U.S.M send the display information to a display unit, which is attached to the print circuit board, through contact strip of the bus).

As per Claim 3, Massaro teaches wherein said bus is attachable to a price track on a shelf (Figure 2, Figure 6 and Figure 7).

As per Claim 4, Massaro teaches wherein each of said price display units are removably attachable to said bus (Figure 2 – 5 and Paragraph 52 – 53)

and said device further comprises means to prevent the unauthorized removal of said price display units from said bus (Paragraph 52 and 61 teaches prevent removal of the display unit by accidental or casual contact of the customers).

The Examiner notes, the underlined portions of the above claim are used to denote intended use and are given little patentable weight. The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

As per Claim 6, Massaro teaches means to lock said price display units against sliding movement along said bus (Figure 2 – 5 and Paragraph 52 – 53 and 61).

The Examiner notes, the underlined portions of the above claim are used to denote intended use and are given little patentable weight. The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

As per Claim 7, Massaro teaches wherein said control unit includes a receiver (Paragraph 7 – 8), and said device further comprising a control station remote from said bus and said control unit (Figure 8 and 9), and said control station including a transmitter wherein pricing information inserted into said control station is transmitted to said control unit and displayed on said plurality of price display units (Figure 8 and 9 and Paragraph 60).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 5 and 8 - 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massaro.**

As per Claim 5, Massaro teaches said price display units having a receiver for receiving an electromagnetic communication (Paragraph 7 – 8),

a handheld programming unit including a transmitter and a scanner for reading said electronic codes wherein said scanner can be used to read said stock number for one of said products and said transmitter can be used to transmit said stock number for said one of said products to one of said price display units (Paragraph 7 – 8 and 13).

Massaro do not explicitly disclose a stock number printed in an electronically readable code on each of said plurality of products on said shelf. Massaro does disclose the item description printed in an electronically readable code on each of said plurality of products on said shelf (Figure 6 and Paragraph 58).

The Examiner notes, stock numbers for products printed in electronic codes for the plurality display unit does not modify the operation of Massaro's method and device and to have modified the method and device of Massaro to have included stock number printing configurations would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already discloses by Massaro. Such modification would not have otherwise affected the method of Massaro and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Massaro. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps discloses by Massaro. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

As per Claim 8, Massaro teaches an electronic identification code printed on each of said plurality of price display units (Paragraph 7 – 8),

a handheld programming unit including a transmitter and scanner for reading said electronic codes wherein said programming unit can read said electronically readable code for one of said products and read said identification code for one of said plurality of price display units and transmit said codes to said control stations (Paragraph 7 – 8, 13 and 65 – 67), and

means for linking said codes wherein said control station will transmit pricing information for said one of said products to said control station to be displayed on said one of said plurality of price display units (Paragraph 60).

Massaro do not explicitly disclose a stock number printed in an electronically readable code on each of said products on said shelf. Massaro does disclose the item description printed in an electronically readable code on each of said products on said shelf (Figure 6 and Paragraph 58).

The Examiner notes, stock numbers for products printed in electronic codes for the plurality display unit does not modify the operation of Massaro's method and device and to have modified the method and device of Massaro to have included stock number printing configurations would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already discloses by Massaro. Such modification would not have otherwise affected the method of Massaro and would have merely represented one of numerous

steps that the skilled artisan would have found obvious for the purposes already disclosed by Massaro. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps disclosed by Massaro. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

As per Claim 9, Massaro teaches each said price display unit including a detector for detecting an electronic signal (Figure 8 – 9 and Paragraph 7 – 8), and

each of said display units having a coded unit identifier (Paragraph 13 and 16),

said control unit including a transmitter for transmitting information to said control station (Figure 9 – 13 and Paragraph 65),

a handheld programming unit having a scanner for reading said electronically readable code on said products and a transmitter for transmitting an electric signal to said detector on one of said price display units wherein said scanner can record said stock number for one of said products and transmit said stock number to one of said display units such that said stock number and said unit identifier for said one of said price display units will be transmitted to said control unit (Paragraph 7 – 8, 13 and 65 – 67), and

means for linking said stock number and said unit identifiers wherein pricing information for said one of said products is displayed on said one of said display units (Paragraph 60).

Massaro do not explicitly disclose a stock number printed in an electronically readable code on each of said products on said shelf. Massaro does disclose the item description printed in an electronically readable code on each of said products on said shelf (Figure 6 and Paragraph 58).

The Examiner notes, stock numbers for products printed in electronic codes for the plurality display unit does not modify the operation of Massaro's method and device and to have modified the method and device of Massaro to have included stock number printing configurations would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already discloses by Massaro. Such modification would not have otherwise affected the method of Massaro and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Massaro. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps discloses by Massaro. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conners et al. (US 20020147597) discloses system and method for restocking and repricing merchandise.

Goodwin, III (US 5473146) discloses system and method for connecting product information with electronic shelf displays.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ig T. An whose telephone number is (571)270-5110. The examiner can normally be reached on Monday - Thursday from 9:30 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art
Unit 3687

/Ig T. An/

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